

REMARKS

Claims 1-62 and 81 are pending in this application. Claims 11 and 41 have been canceled without prejudice. Claims 1, 31 and 81 were amended without prejudice and without conceding to the Examiner's characterizations. Each of the pending claims has been rejected, and Applicant traverses each rejection as follows.

35 U.S.C. § 112, first paragraph

WRITTEN DESCRIPTION

The Examiner has rejected claims 1-12, 14-42, 44-62 and 81 under 35 U.S.C. § 112, first paragraph, (a written description rejection). "Applicant's claimed expression represents only an invitation to experiment regarding possible compounds suitable as sulfur derivatives, which can be used in the compositions for absorbing irritants in the skin and delivering sulfur." Applicant traverses this rejection for at least the following reasons.

First, claims 61 and 62 do not use the term "sulfur derivative," and therefore the rejection is inapplicable to these claims. Second, Applicant has amended claim 1 (and the other pending claims are dependent on claim 1) to enumerate sulfur derivatives, as they are described in the specification. Therefore, the sulfur derivatives satisfy written description requirements and Applicant respectfully requests that this rejection be withdrawn.

ENABLEMENT

Claims 1-12, 14-42, 44-62 and 81 were rejected under 35 U.S.C. § 112, first paragraph as being not enabled. Applicant traverses this rejection for at least the following reasons.

The Examiner alleges that "the specification, while being enabled for using the claimed method using the compositions which has sulfur and sodium sulfacetamide, does not

to the Examiner, "both the article and the patent teach...treating acne using sulfur and sulfur derivatives..." Applicant traverses this rejection for at least the following reasons.

The '301 patent does not teach using both sulfur and sulfur derivatives in one composition. Sulfur is only used by itself in the Comparative Experiment A, and never in the compositions with a sulfur derivative in the '301 patent. Further, as Applicant noted above, Lin (referred to as the article by the Examiner) only teaches one composition which uses both sulfur and a sulfur derivative on acne, and as noted above, this composition is malodorous, unlike the present invention. See Gans Affidavit III. One of ordinary skill in the art would not find it obvious to use a malodorous composition of sulfur and a sulfur derivative in connection with the '301 patent because the '301 patent was attempting to deodorize compositions. (See Col. 1, Line 14) In fact, Lin's composition actually teaches away from combination with the '301 patent because Lin's composition was malodorous. Additionally, both the '301 patent and Lin require attapulgit, and the present invention's high sorption base is substantially free of attapulgit.

The Examiner also cites Skin Care and Cosmetic Ingredients Dictionary as support for, "[g]ums are used for the known property as thickeners or gelling agents and one of ordinary skill in the art would be motivated to use gums expecting that the formulation would be viscous." However, gum is used in the present invention as a high sorption base. The Examiner has introduced no evidence that thickening or gelling agents would be obvious choices to absorb irritants from the skin, and the prima facie case for obviousness has not been met by the Examiner. One of ordinary skill in the art would not find it obvious to use gums as high sorption bases. Therefore, Applicant respectfully requests removal of this rejection.

Authorization of Deposit Account

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment, to Deposit Account #18-0586. This authorization also hereby includes a request

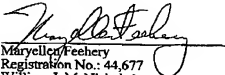
for any extensions of time of the appropriate length required upon the filing of any reply during the entire prosecution of this application.

I hereby certify that this paper and the papers referred to herein as being transmitted, submitted, or enclosed herewith in connection with U.S. Serial No. 10/022,452 is/are being facsimile transmitted to the United States Patent and Trademark Office fax number 703 872 9306 on the date shown below.


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Date of Facsimile Transmission

Respectfully submitted,


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